

Attorney Docket No: IDF 1595 (4000-04000)

**REMARKS**

Applicants have received and reviewed the Examiner's Office Action dated January 2, 2004. Applicants have amended claims 2, 10, and 13, as requested by the Office Action to clarify and correct the informalities. Applicants have likewise amended claim 12 to correct an informality. Applicants respectfully submit that these amendments did not affect the scope of these claims. Applicants have amended claim 10 to address the rejections under Section 112 in a manner which Applicants submit does not affect the scope of the claims. Finally, Applicants have submitted new claims 19 to 30 which are based on, but not literally copied from, current dependent claims 11, 12, 14, 15, and 16. Applicants believe that the scope of these claims has not been narrowed from the dependent claims they were derived from, but if anything, has been broadened.

**Response to Rejections under Section 112**

Applicants have reviewed the Office Action's rejection under Section 112 for clarity concerns regarding what constitutes an "application." Applicants submit that the language of the present patent application is intended to create the following general set of relationships. An application is used in the specification and claim language in a manner similar to that defined by the Office Action as further exemplified by the examples of various applications described in the specification. Applicants respectfully submit that an application as described is software and not hardware. By implication and standard definitions an application provides a service, be it a specific task or set of related specific tasks. While the definition proffered by the Office Action refers to a program, in more modern parlance with object oriented programming and distributed computing, an application could in some circumstances be described as an interconnected set of programs, executables, libraries, etc working in concert to deliver the service and its underlying functions. Under the language of the specification, these underlying pieces may be referred to as "elements" of the application. The specification also reflects that some groups of services are occasionally referred to collectively, such as "middleware." The various services provided in a complete middleware system are sometimes referred to as "components" of the system in practice and in this specification. These are software components. In that sense an application providing a service acts as a software component of the larger middleware system. Hardware

Attorney Docket No: IDF 1595 (4000-04000)

systems may also have hardware components, such as servers in a network, where the context provides the indication of which kind of component is under discussion. Finally, the specification refers to devices at a number of points. Devices also may fully or partially serve a function or set of functions or provide a service and may be hardware or software or combinations of hardware and software. To the extent an application is providing a service, in some parlance it may be referred to as a device (more specifically a software device) providing that service. This does not mean an application suddenly becomes a hardware device, but rather that device as a term may be used for both hardware and software components. In the above context, Applicants respectfully submit that the term application as used in the present claims may be reasonably understood by those of skill in the art by combining their understanding of the general meaning of the term combined with the specific examples of the term as used in the present specification.

Applicants have reviewed the Office Action's rejections under Section 112 of claims 10-12 regarding whether a response is actually from a channel. Applicants submit that from the viewpoint of the user or program outside of the application, the response comes "from" the channel, but Applicants agree that the response originated elsewhere in the application as would be correctly understood in view of the disclosure of the specification. Applicants have amended claim 10 to clarify this understanding, and respectfully submit that this amendment does not modify the scope of the claims.

Applicants have reviewed the Office Action's rejections under Section 112 of claims 11-12 regarding whether a receive channel or a subscribe channel can provide a response. Applicants respectfully submit that a user or program using a messaging service may register to receive messages, receive confirmation that they are registered, and then can receive messages via a receive channel. Applicants respectfully submit that a user or program using a publish/subscribe service may subscribe to receive certain kinds of messages, receive confirmation of subscribing, and then receive subscribed messages via a subscribe channel. For these reasons, Applicants believe that the current claims should satisfy the requirements of Section 112.

Attorney Docket No: IDF 1595 (4000-04000)

**Response to Rejections under Sections 102 and 103**

Applicants have reviewed the Office Action's use of U.S. Patent 6,249,886 (hereinafter "Kalkunte") in both Section 102 and Section 103 rejections of Claims 1-3, 6-10, 13, and 17 and Claims 4-5 and 18 respectively. Applicants have reviewed Kalkunte and believe that Kalkunte at Column 2, lines 47-55 (as specifically cited in the rejections) is directly addressing load testing a system by sending multiple commands to different applications and different servers.

The present claims are instead addressed to testing different elements of a single application. This is discussed in overview in paragraph 20 as follows:

A networked computer system may contain numerous heterogeneous components such as web servers, name servers, messaging systems, databases, authorization services, transaction brokers, and other products. Each of these components may have internal elements providing different functions (for example, internal communication channels as well as communication channels to the other components). Modular monitoring programs exist within the Integrated Monitoring System that test the performance of each of these elements. The monitoring programs work in independent threads to test functional elements of the monitored devices. Thus, if a failure occurs anywhere within the network, the Integrated Monitoring System is able to assist in pinpointing the exact location of the breakdown since it will provide needed trouble-shooting information of which elements are functioning and which are not.

While this disclosure is more generally addressed to components (hardware or software) of a networked computer system and monitored devices (hardware or software), the specific examples given here and described in detail later in the application (e.g. messaging systems, authorization services, transaction brokers) represent specific applications having multiple elements (including functional elements and communication channels) which are distinct but part of the same application. Applicants' acknowledged in the specification that systems such as that described in Kalkunte existed to test multiple applications, but considered that a failing in the options on the market available to the Applicants at the time of the invention was that the testing tended to test one aspect or overall response of a given application. By instead testing and monitoring multiple elements of the same application, problems may be spotted which would

Attorney Docket No: IDF 1595 (4000-04000)

otherwise have been initially overlooked, and when problems do arise, a review of the multiple tested elements may help more quickly isolate the problems. Kalkunte does not appear to provide this insight or the teaching to suggest it. The independent claims presented, by comparison specifically require the testing of a second element of the same application or a second channel of the same application. Neither does the other art cited in the Office Action address this understanding.

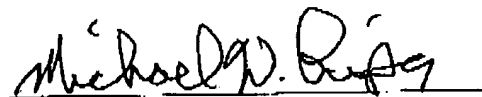
### Conclusion

For these reasons Applicants submit that the present claims as amended are in condition for allowance. Also, in consideration of the claims not under current rejection by under sections 102 or 103, for ease of prosecution going forward, Applicants have submitted new claims 19-30 which take claims 11, 12, 14, 15, and 16 and rewrite them in an edited independent form. The elements of these claims have been modified and broadened in some respects to reflect Applicants' understanding of the Office Action's implied and express reasons for not rejecting these claims. Applicants submit that these new claims are also in condition for allowance.

The Commissioner is hereby authorized to charge payment of any further fees associated with any of the foregoing papers submitted herewith, or to credit any overpayment thereof, to Deposit Account No. 21-0765, Sprint.

Applicants respectfully submit that the present application as amended is in condition for allowance. If the Examiner has any questions or comments or otherwise feels it would be helpful in expediting the application, he is encouraged to telephone the undersigned at (972) 731-2288.

Respectfully submitted,

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